UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,911	06/19/2000	JAN ERIKSSON	49549-60259	4412

466 7590 05/25/2004

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

EXAMINER	
VALENTI, ANDREA M	
ART UNIT	**PAPER NUMBER**
3643	24

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 24

Application Number: 09/581,911
Filing Date: June 19, 2000
Appellant(s): ERIKSSON, JAN

Roland E. Long
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12 August 2003 and The Board of Patent Appeals and Interferences remand to the examiner on 9 March 2004 requesting clarification of the rejection relied upon in the examiner's answer presented in Paper No. 18.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief: DeLaval Holding AB of Tumba, Sweden.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Applicant identified there are no known appeals or interferences that would directly affect or have a bearing on the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-4 and 8-10 stand or fall together and claims 5-7 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,508,058	***Jakobson et al***	***04-1985***
EP 0244642	***Finger***	***04-1987***
WO 96/36312	***Innings et al***	***11-1996***

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10 rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 15.

Examiner has provided the rejections below to clarify the typographical error in the previous Examiner's Answer Paper No. 18 and Office Action Paper No. 15. The previous Examiner's Answer referenced Paper No. 10 as the grounds of rejection, but the examiner intended to reference the Final Office Action, Paper No. 15. This typographical error has been corrected in the preceding paragraph. Within the referenced Final Office Action Paper No. 15, the examiner made a typographical error when cited prior art reference European Patent No. 0244642 to Eugene P. Finger was not indicated for the rejections of claims 5-7. Correction for this oversight is provided below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,058 to Jakobson et al in view of European Patent No. 0244642 to Eugene P. Finger.

Regarding Claims 1-4 and 8-10, Jakobson et al discloses an animal related apparatus with a robot (Jakobson et al #8) for performing an animal relates operation, the robot being associated with a control means (Jakobson et al #5), at least one animal related device (#6) associated with the control means, the robot being provided with a robot arm (Jakobson et al #15) adapted to move the animal related device towards the animal, teat location device, teat cleaning device (Jakobson et al Fig. 6 #18), gate means (Jakobson et al #4"). A registering means (Jakobson et al #14 and #18), a control means adapted to generate a signal (Jakobson et al Col. 6 line 27-28) when a predetermined threshold value has been reached. Jakobson et al is silent on a predetermined threshold value and running value set for each of the animal related device, the robot, and the complete related operation. However, Finger teaches that it is old and well-known in the art of routine mechanical maintenance practices to monitor the total operating time of a machine or apparatus and that the cumulative operating

measurement provides a basis for determining when the device should receive maintenance. It would have been obvious to one of ordinary skill in the art to modify the apparatus teachings of Jakobson et al with the maintenance practices of Finger since preventative maintenance procedures are a well-known means of preventing unnecessary operational down time do to mechanical failures and to keep the system clean to prevent the spread of bacteria and disease to the other members of the herd (Finger Col.1) thus assuring reliability of a system.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,058 to Jakobson et al and European Patent No. 0244642 to Eugene P. Finger as applied to claim 1 above, and further in view of WO 96/36212 to Innings et al.

Regarding Claims 5-7, Jakobson et al teaches that the animal related device has milking equipment with a teat-cup (Jakobson et al Fig.6) and the control means being adapted to register the cumulative running value of the components of the apparatus (Figner Col. 1), but is silent on how the teat-cup operates. However, Innings et al teaches a teat cup configuration having a shell and a liner forming an intermediate space (Innings et al #6), the space being connectable to a source of vacuum (Innings et al #13) via a pulsator for creating a pulsating vacuum (Innings et al #7), the pulsator associated with the control means (Innings et al #20). It would have been obvious to one of ordinary skill in the art to modify the teachings of Jakobson et al with the teachings of Innings et al since it is old and well-known in the art of animal husbandry to have a lined pulsating teat cup with a vacuum in an automated milking configuration and

the teachings of Innings et al is merely an alternate equivalent teat cup configuration selected for efficient automated milking procedures.

(11) Response to Argument

Examiner maintains that the rejection presented in the office action paper No. 15 is withstanding, which applied the teachings of Jakobson et al in view of the teachings of Finger. Examiner relied on the entire teachings of Jakobson et al when applying the cited art to the rejection and the Examiner cited specific areas of the Jakobson patent to help illustrate its applicability. The examiner would like to further point out that Jakobson alone does teach a registering means and a control means with regard to the animal related device and the complete related operation, but is silent on the registering means and control means for the robot. The abstract of Jakobson (second paragraph of abstract) teaches a registering means that registers a cumulative value and a control means that generates a signal when the predetermined threshold value has been reached. In other words, the abstract of Jakobson teaches a registering means that registers the current time, the previous time, and the time that has elapsed in between when the cow was last milked. If this registered time falls within the predetermined threshold value the signal by the control means is the activation of the milking equipment. Examiner would like to further illustrate that Jakobson teaches a control means to generate a signal when the threshold value has been reached for an animal related device in Jakobson Col. 3 line 28-36.

Examiner maintains it would have been obvious to one of ordinary skill in the art to modify the teachings of Jakobson with the teachings of Finger since Finger teaches to include monitoring total operation time of a machine as a basis for determining when the device should receive maintenance (Finger Col1 line 1-31). This modification is merely the inclusion of mechanical parts into the registering and control means already taught by Jakobson. One of ordinary skill would be motivated to combine the teachings as a common and efficient preventative maintenance procedure to prevent mechanical failure and loss of equipment and production time.

Furthermore, examiner maintains that Jakobson in view of Innings is a valid combination that teaches all of the limitations recited in applicant's claims 5-7. Innings was merely cited to illustrate the common components of milking equipment such as the teat cup and its structure in conjunction with a pulsator. These are old and notoriously well-known components of automated milking systems. Jakobson teaches an automated milking system but did not explicitly teach the structure of the teat cups. The combination of Jakobson in view of Finger applied to claim 1 is provided to teach the known concept of a registering means for registering a running value and a control means to generate a signal when a predetermined threshold value has been reached. It would be obvious to one of ordinary skill in the art to apply the concept taught by Jakobson in view of Finger to various different components of the system such as the pulsator, teat location device, teat cleaning device, gate drive means since these are all alternate equivalent pieces of mechanical equipment that require routine maintenance.

Examiner does not agree with the conclusion of applicant's appeal brief. It appears that applicant has made an inadvertent oversight by including the wrong conclusion since applicant references prior art that was never cited in this particular application.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

AMV amv
April 14, 2004

PETER M. POON
SUPERVISORY PATENT EXAMINER

Conferees
Peter Poon PMP
Robert Swiatek RPS

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202